

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER: CLWZ 2 00158
		U.S. APPLICATION NO. (if known, see 37 CFR 1.5) 10/565090
INTERNATIONAL APPLICATION NO. PCT/CA2004/001045	INTERNATIONAL FILING DATE 15 July 2004 (15.07.2004)	PRIORITY DATE CLAIMED 18 July 2003 (18.07.2003)
TITLE OF INVENTION NEW OXIDATION PROCESS FOR WATER TREATMENT		
APPLICANT(S) FOR DO/EO/US Danielle MIOUSSE, Fabienne BIASOTTO, and Serge LABBE		
Applicant submits herewith to the United States Designated/Elected Office (DO/EO/US) the following items and other information: <ol style="list-style-type: none"> <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a submission under 35 U.S.C. 371. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below. <input checked="" type="checkbox"/> The US has been elected (Article 31). <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2)) <ol style="list-style-type: none"> <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). <input checked="" type="checkbox"/> has been communicated by the International Bureau. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> <input type="checkbox"/> is attached hereto. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) <ol style="list-style-type: none"> <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). <input type="checkbox"/> has been communicated by the International Bureau. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. <input checked="" type="checkbox"/> have not been made and will not be made. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). <input type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). <p>Items 11 to 20 below concern document(s) or information included:</p> <ol style="list-style-type: none"> <input checked="" type="checkbox"/> An Information Disclosure Statement, related PTO-Form 1449 and references (if required) under 37 CFR 1.97 and 1.98. <input type="checkbox"/> An Assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 included. <input checked="" type="checkbox"/> A Preliminary Amendment. <input type="checkbox"/> An Application Data Sheet. <input type="checkbox"/> A substitute specification. <input type="checkbox"/> A power of attorney and/or change of address letter. <input type="checkbox"/> A computer readable form of the sequence listing in accordance with PCT Rule 13.ter.2 and 37 CFR 1.821-1.825. <input checked="" type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4). <input type="checkbox"/> A second copy of the English language translation of the International Application under 35 U.S.C. 154(d)(4). <input type="checkbox"/> Other items or information: _____ 		

RECEIVED

16 FEB 2006

Legal Staff
International Division

CERTIFICATE OF EXPRESS MAILING UNDER 37 CFR 1.10

"Express Mail" Mailing Label Number: EV 690739363 US

Date of Deposit: January 18, 2006

I hereby certify that this **TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371** and accompanying documents are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, addressed to: MAIL STOP PCT, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated above.

Mary M. Schriener
Mary M. Schriener

Date: *Jan 18, 2006*

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U.S. APPLICATION NO. 10/565090 PCT/CA2004/001045					ATTORNEY'S DOCKET NO. CLWZ 2 00158	
21. <input checked="" type="checkbox"/> Applicant(s) claim(s) small entity status. See 37 CFR 1.27 The following small entity fees have been submitted:					Calculations	PTO Use Only
22. <input checked="" type="checkbox"/> Basic national fee (37 CFR 1.492(a)) \$150.00					\$150.00	
23. <input checked="" type="checkbox"/> Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4) All other situations \$0 \$100.00					\$100.00	
24. <input checked="" type="checkbox"/> Search fee (37 CFR 1.492(b)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4) \$0 Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority \$50.00 International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB \$200.00 All other situations \$250.00					\$200.00	
TOTAL OF 22, 23 and 24 = \$450.00						
Surcharge of \$65.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).					\$0.00	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	CALCULATIONS		
Total Claims	10 - 20 =	0	x \$25	= \$0.00	\$0.00	
Independent Claims	1 - 3 =	0	x \$100	= \$0.00	\$0.00	
Multiple Dependent Claim(s)		0	x \$180	= \$0.00	\$0.00	
Additional fee for specification and drawings filed in paper over 100 sheets	Group(s): (Group = number of each additional 50 or fraction thereof)	0	x \$125	= \$0.00	\$0.00	
TOTAL OF ABOVE CALCULATIONS =					\$450.00	
Processing fee of \$65.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).					\$0.00	
TOTAL NATIONAL FEE =					\$450.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property.					\$0.00	
TOTAL SMALL ENTITY FEES =					\$450.00	

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: MAIL STOP PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

10/565090

SUBSTITUTE FOR PTO-1390 (Rev. 12-2004)

Approved for use through 3/31/2007. OMB 0651-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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AP12 Rec'd PCT/PTO 18 JAN 2006

- a. ☐ A check in the amount of \$ _____ to cover the above fees is enclosed.
- b. ☐ Please charge Deposit Account No. 06-0308 in the amount of \$ _____ to cover the fees identified. A duplicate of this sheet is enclosed.
- c. ☒ Fees indicated above are to be charged to a credit card. The appropriate form PTO-2038 is enclosed for this purpose. If the Credit Card is unable to be charged, please charge any and all fees or credit any overpayment to Deposit Account No. 06-0308.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

Timothy E. Nauman
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2579

Timothy E. Nauman
Signature

Timothy E. Nauman
Name

32,283
Registration Number

18 January 2006
Date



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

18 SEP 2006

David S. Resnick
Nixon Peabody
100 Summer Street
Boston, MA 02110

In re Application of :
MIOUSSE, Danielle, et al. :
U.S. Application No.: 10/565,090 :
PCT No.: PCT/CA04/01045 :
Int. Filing Date: 15 July 2004 :
Priority Date: 18 July 2003 :
Attorney Docket No.: 710826-57620 :
For: NEW OXIDATION PROCESS FOR :
WATER TREATMENT :

DECISION

This is a decision on applicant's "Letter to Legal Office," filed in the United States Patent and Trademark Office on 09 March 2006. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/CA04/01045, claiming a priority date of 18 July 2003. The international application was transmitted to the Office by the International Bureau on 27 January 2005. Accordingly, the thirty-month period for paying the basic national fee in the United States expires at midnight on 18 January 2006.

On 18 January 2006, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 09 March 2006, applicant filed this request to abandon this national phase application.

On 05 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

DISCUSSION

Applicant claims to have submitted two sets of papers for the national stage entry of international application number PCT/US04/01045. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper. In such a circumstance, the two entries are normally consolidated into a single application. This consolidation sometimes requires a petition under 37 CFR 1.182.

However, in this situation, applicants have not identified the other national phase entry and further have incorrectly identified this entry as the national phase of PCT/US04/01045, rather than the national phase of PCT/CA04/01045.

Further, applicant's petition for express abandonment will not be acted upon. It was signed by an attorney who has not provided a power of attorney executed by all applicants or by the assignee.

CONCLUSION

Applicant's petition under 37 CFR 1.181 for express abandonment is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being returned to PCT Central Files to await a response to the Notification of Missing Requirements.



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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11 AUG 2006

Timothy E. Nauman
FAYE, SHARPE, FAGAN, MINNICH, McKEE, LLP
1100 SUPERIOR AVENUE
SEVENTH FLOOR
CLEVELAND, OH 44114-2579

In re Application of: MIOUSSE, et al :
Application No.: 10/565,131 :
PCT Application No.: PCT/CA04/01045 : COMMUNICATION
Int. Filing Date: 15 July 2004 :
Priority Date Claimed: 18 July 2003 :
Attorney Docket No.: CLWZ 2 00158 :
For: New Oxidation Process for Water Treatment :

This application is before the Office Of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 15 July 2004, Applicant filed international application PCT/CA04/01045, which designated the U.S. and claimed a priority date of 18 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 January 2006.

On 18 January 2006, application papers requesting national stage entry in the United States for PCT/CA04/01045 were submitted and accompanied by the requisite basic filing fee and were assigned U.S. application number 10/565,131.

DISCUSSION

An executed oath or declaration for all inventors as required by 35 U.S.C. 371(c)(4) along with the \$130 surcharge for filing the oath or declaration after the thirty-month period is required, as well as a power of attorney. The oath or declaration of the

inventors, in compliance with 37 CFR 1.497(a) and (b), should identify the application by the international application number and the international filing date.

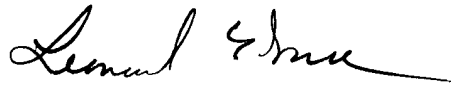
CONCLUSION

The application is being held in the PCT Legal Office to await Applicant's reply. Applicant has TWO (2) MONTHS from the mail date of this decision within which to provide a proper reply. The time period set forth may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the undersigned at Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Dionne W. Mayes
PCT Legal Administration Detailee
Telephone: 571-272-6094
Facsimile: 571-273-0459



Leonard Smith
Supervisory Legal Examiner
Office of PCT Legal Administration

FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP
1100 SUPERIOR AVENUE, 7th Floor
CLEVELAND, OHIO 44114-2518
(216) 861-5582

RECEIVED

30 AUG 2006

Legal Staff
International Division

DATE: August 30, 2006

TO: U. S. PATENT AND TRADEMARK OFFICE
Mail Stop: PCT
Office of PCT Legal Administration

ATTENTION: Leonard Smith – Supervisory Legal Examiner
Dionne W. Mayes – PCT Legal Administration Detailee

FACSIMILE NO.: 1 571-273-0459

FROM: Timothy E. Nauman

RE: U.S. Serial No. 10/565,131
Our Reference: CLWZ 2 00158

Total number of pages (including this cover sheet): 6

Please call us immediately at (216) 861-5582 if the telecopy you receive is incomplete or illegible. Our facsimile numbers are (216) 241-1666 and (216) 241-5147.

CERTIFICATE OF MAILING

I certify that this Submission of Declaration is being transmitted by facsimile to the U.S. Patent and Trademark Office, MAIL STOP PCT, Attention Office of PCT Legal Administration, at facsimile number 571-273-0459 on the date indicated below.

August 30, 2006
Date

Mary M. Schiner
Mary M. Schiner

The documents accompanying this facsimile transmission include information from the firm of Fay, Sharpe, Fagan, Minnich & McKee, LLP might be legally privileged and/or confidential. The information is intended for the use of only the individual or entity named on this cover sheet. If you are not the intended recipient, any disclosure, copying, or distribution of these documents, or the taking of any action based on the contents of this transmission, is prohibited. If you have received this transmission in error, these documents should be returned to this firm as soon as possible, and we ask that you notify us immediately by telephone so we can arrange for their return to us without cost to you. L:\MMS\DATA\FORMS\FAXES\PTO.PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

APPLICANT : Danielle Miousse, et al.
FOR : NEW OXIDATION PROCESS FOR
WATER TREATMENT
SERIAL NO. : 10/565,131
INTERNATIONAL SERIAL NO. : PCT/CA2004/001045
INTERNATIONAL FILING DATE : 15 July 2004
EXAMINER : Unknown
ART UNIT : Unknown
ATTORNEY DOCKET NO. : CLWZ 200158

SUBMISSION OF DECLARATION

Commissioner for Patents
Office of PCT Legal Administration
Attention: Leonard Smith, Supervisory Legal Examiner
Dionne W. Mayes, PCT Legal Administration Detailee
P. O. Box 1450
Arlington, VA 22313-1450

Dear Sir:

Applicant submits herewith an executed Declaration and Power of Attorney for the captioned application in response to the Communication mailed August 11, 2006.

Certificate of Facsimile	
I hereby certify that this Submission of Declaration is being transmitted to the U.S. Patent and Trademark Office, Attention Office of PCT Legal Administration, at facsimile number 571-273-0459 on the date indicated below.	
<i>August 30, 2006</i>	<i>Mary M. Schiner</i>
Date:	By: Mary M. Schiner

APPLICANT: Danielle Miousse, et al.
FOR: NEW OXIDATION PROCESS FOR WATER TREATMENT
INTERNATIONAL SERIAL NO. PCT/CA2004/001045

Page 2 of 2

The \$130.00 fee in payment of the surcharge required under 37 CFR 1.16(f) for filing the Declaration later than the filing date of the application is authorized to be charged to a credit card. The appropriate form PTO-2038 is attached for this purpose. If the credit card is unable to be charged, please charge any and all fees or credit any overpayment to Deposit Account No. 06-0308.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

30 August 2006
Date

Timothy E. Nauman
Timothy E. Nauman
Reg. No. 32,283
1100 Superior Avenue, 7th Floor
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216-861-5582



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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03 OCT 2006

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FAYE, SHARPE, FAGAN, MINNICH, McKEE, LLP
1100 SUPERIOR AVENUE
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CLEVELAND, OH 44114-2579

In re Application of: MIOUSSE, et al	:	
Application No.: 10/565,090 and 10/565,131	:	
PCT Application No.: PCT/CA04/01045	:	DECISION MERGING
Int. Filing Date: 15 July 2004	:	APPLICATION FILES
Priority Date Claimed: 18 July 2003	:	
Attorney Docket No.: 701826-57620 and CLWZ 2	:	
00158	:	
For: New Oxidation Process for Water Treatment	:	

This application is before the Office Of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 15 July 2004, Applicant filed international application PCT/CA04/01045, which designated the U.S. and claimed a priority date of 18 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 January 2006.

On 18 January 2006, application papers requesting national stage entry in the United States for PCT/CA04/01045 were submitted by the law firm of Faye, Sharpe, Fagan, Minnich, McKee, LLP and accompanied by the requisite basic filing fee and were assigned U.S. application number 10/565,131.

Also, on 18 January 2006, application papers requesting national stage entry in the United States for PCT/CA04/01045 were submitted by the law firm of Nixon Peabody, LLP. These papers were accompanied by the requisite basic filing fee and were assigned U.S. application number 10/565,090.

On 09 March 2006, representatives from the firm of Nixon Peabody filed a request, which was treated as a petition under 37 CFR 1.181, on behalf of Applicant, to expressly abandon U.S. application number 10/565,090.

On 05 July 2006, the Office mailed, in the application 10/565,090, a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 30 August 2006, Applicants filed, in the 10/565,090 application, a "Declaration and Power of Attorney" appointing representatives from the firm of Faye, Sharpe, Fagan, Minnich & McKee, LLP.

On 18 September 2006, the Office mailed a decision, in the 10/565,090 application, dismissing Applicant's petition to expressly abandon U.S. application number 10/565,090.

DISCUSSION

Firstly, the submission of two different sets of application papers to enter the national stage in the United States was improper as there can only be one U.S. national stage application filed under 35 USC 371. In view of the "Declaration and Power of Attorney" submitted on 30 August 2006, filed by representatives from the firm of Faye, Sharpe, Fagan, Minnich & McKee, LLP, and the petition from the representatives of Nixon Peabody, filed on 09 March 2006, it is clear whom Applicants have selected to represent them during national stage processing under 35 USC 371. Therefore, future correspondence regarding this matter will be sent to the firm of Faye, Sharpe, Fagan, Minnich & McKee, LLP. As the Office has already begun national stage processing of international application PCT/CA04/01045 under U.S. Application Number 10/565,090, that number will continue to be used to identify the U.S. national stage application of PCT/CA04/01045. The attorney docket number will be changed to that assigned to the law firm of Faye, Sharpe, Fagan, Minnich & McKee, LLP.

Secondly, the Declaration, filed on 30 August 2006, is defective because non-initialed and/or non-dated alterations have been made to it. Specifically, the address of the second joint inventor, Fabienne Biasotto, has been altered without being initialed and dated. See MPEP 605.04(a), which states:

"Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath and declaration. The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the

oath or declaration but will require a new oath or declaration. Form paragraph 6.02.01 may be used to call noninitialed and/or nondated alterations to applicant's attention."

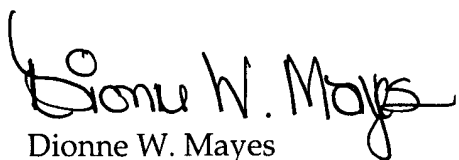
Lastly, two preliminary amendments were filed on 18 January 2006 – one from the firm of Nixon Peabody and one from the firm of Faye, Sharpe, Fagan, Minnich & McKee, LLP. Counsel is advised to consider if any further action regarding these amendments is necessary, e.g. cancellation of one of the preliminary amendments.

CONCLUSION

Application number 10/565,090 will continue to be processed under 35 USC 371. Applicant should now use application number 10/565,090 in all future communications with the USPTO regarding the U.S. national stage application based on international application PCT/CA04/01045.

A new oath or declaration, for second joint inventor Fabienne Biasotto, in compliance with 37 CFR 1.497(a)-(b) is required. Applicant is given the longer of **one month** (which is non-extendable) **or the time period that remains to reply to the Notification of Missing Requirements** (Form PCT/DO/EO/905), mailed 5 July 2006, to provide the new oath or declaration. Failure to timely submit the new oath or declaration will result in ABANDONMENT.

Application number 10/565,090 is being forwarded to the DO/EO/US for further processing - in accordance with the decision including the placement of the 10/565,131 application paper in the 10/565,090 application file and deactivation of the 10/565,131 file - and to await receipt of the new oath or declaration required above.



Dionne W. Mayes
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Boris Milef
Legal Examiner
Office of PCT Legal Administration

cc Nixon Peabody
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